

Case No.

U. S. DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

**CV 07**

**5775**

HERNAN O'RYAN CASTRO,

Petitioner,

v.

ROBERT E. McFADDEN,  
Western Regional Director,  
Federal Bureau of Prisons,

Respondent.

*rose*  
**E-filing**

**RECEIVED**

NOV 14 2007

**FILED**  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

NOV 14 2007

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

*[Handwritten signature]*  
**PJH**  
**(PR)**

EXHIBITS IN SUPPORT OF PETITION FOR WRIT OF  
HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241  
BY A PERSON IN FEDERAL CUSTODY

Hernan O'Ryan Castro  
Reg. No. 73026-011  
Taylor Street Center  
111 Taylor Street  
San Francisco, CA 94102

**In Pro Se**

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PROGRAMMING

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# United States District Court

Southern District of Georgia

Certified as a true copy on

This Date: JUL 15 1992

By

Clerk  
(X) Deputy

UNITED STATES OF AMERICA

V.

Herman O'Ryan Castro

(Name of Defendant)

## JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: CR491-142-03

Mark Jenkins and Pomeroy Williams

Defendant's Attorney

### THE DEFENDANT:

- ☐ pleaded guilty to count(s) \_\_\_\_\_
- ☒ was found guilty on count(s) 1 and 2 after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21: 846	Conspiracy to Possess with Intent to Distribute and to Distribute Cocaine	07-30-91	1
21: 960 and 963	Conspiracy to Import into the U.S. from Outside Territorial Limits thereof, Multi-kilo Quantities of Cocaine Hydrochloride	07-30-91	2

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984..

- ☐ The defendant has been found not guilty on count(s) \_\_\_\_\_ and is discharged as to such count(s).
- ☐ Count(s) \_\_\_\_\_ (is)(are) dismissed on the motion of the United States.
- ☒ It is ordered that the defendant shall pay a special assessment of \$ 100.00, for count(s) 1 and 2, which shall be due ☒ immediately ☐ as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 548-42-8812

Defendant's Date of Birth: 04-10-55

Defendant's Mailing Address:

5 Santa Ana Avenue  
Daly City, California 94015

Defendant's Residence Address:

U.S. Bureau of Prisons

July 10, 1992

Date of Imposition of Sentence

Signature of Judicial Officer

Honorable John F. Nangle  
United States District Judge

Name & Title of Judicial Officer

JULY 14, 1992

Date

Exhibit A 30

AO 245 S (Rev. 4/90) Sheet 2 - Imprisonment

Defendant: **Hernan O'Ryan Castro**  
 Case Number: **CR491-142-03**

Judgment—Page 2 of 4**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 240 months as to each of Counts 1 and 2, to be served consecutively.

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends that the defendant be allowed to serve his period of incarceration at either FCI Lompoc, CA, FCI Terminal Island, CA, or FCI Pleasanton, CA.

☒ The defendant is remanded to the custody of the United States marshal.

☐ The defendant shall surrender to the United States marshal for this district,

- ☐ at \_\_\_\_\_ a.m.  
☐ at \_\_\_\_\_ p.m. on \_\_\_\_\_  
☐ as notified by the United States marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons,

- ☐ before 2 p.m. on \_\_\_\_\_  
☐ as notified by the United States marshal.  
☐ as notified by the probation office.

**RETURN**

I have executed this judgment as follows:

Defendant delivered on 08-07-1992 to Federal Correctional Institution Terminal Island at  
San Pedro, California, with a certified copy of this judgment.

Mark A. Henry, Warden

XXXXXXXXXXXX

J.R. Johnson, Legal Technician

By

XXXXXXXXXXXX  
 Deputy Marshal  
 XXXXXXXXXXXX

31

LVNV9 540\*23 \* SENTENCE MONITORING \* 10-22-2007  
 PAGE 001 \* COMPUTATION DATA \* 15:16:32  
 AS OF 10-22-2007

REGNO...: 73026-011 NAME: CASTRO, HERNAN O'RYAN

FBI NO.....: 811194DA9 DATE OF BIRTH: 04-10-1955  
 ARS1.....: LVN/A-DES  
 UNIT.....: CMP B2 QUARTERS.....: F04-023L  
 DETAINERS.....: NO NOTIFICATIONS: NO

PRE-RELEASE PREPARATION DATE: 11-10-2007

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.  
 THE INMATE IS PROJECTED FOR RELEASE: 05-10-2008 VIA 3621E CMPL

-----CURRENT JUDGMENT/WARRANT NO: 020 -----

COURT OF JURISDICTION.....: GEORGIA, SOUTHERN  
 DOCKET NUMBER.....: CR-94-142-03  
 JUDGE.....: NANGLE  
 DATE SENTENCED/PROBATION IMPOSED: 07-10-1992  
 DATE COMMITTED.....: 08-07-1992  
 HOW COMMITTED.....: US DISTRICT COURT COMMITMENT  
 PROBATION IMPOSED.....: NO

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED.:	\$100.00	\$00.00	\$00.00	\$00.00

RESTITUTION...: PROPERTY: NO SERVICES: NO AMOUNT: \$00.00

-----CURRENT OBLIGATION NO: 010 -----

OFFENSE CODE.....: 391  
 OFF/CHG: IN VIOLATION OF TITLE 21 USC 846; CONSPIRACY TO POSSESS  
 W/INTENT TO DISTRIBUTE AND DISTRIBUTION OF COCAINE. IN  
 VIOLATION OF TITLE 21 USC 960 AND 963; CONSPIRACY TO IMPORT  
 INTO THE U.S. FROM OUTSIDE TERRITORIAL LIMITS THEREOF, MULTI-  
 KILO QUANTITIES OF COCAINE HYDROCHLORIDE.

SENTENCE PROCEDURE.....: 3559 SRA SENTENCE  
 SENTENCE IMPOSED/TIME TO SERVE.: 240 MONTHS  
 TERM OF SUPERVISION.....: 10 YEARS  
 DATE OF OFFENSE.....: 07-31-1991

G0002 MORE PAGES TO FOLLOW . . .

Exhibit B

LVNV9 540\*23 \* SENTENCE MONITORING \* 10-22-2007  
PAGE 002 OF 002 \* COMPUTATION DATA \* 15:16:32  
AS OF 10-22-2007

REGNO...: 73026-011 NAME: CASTRO, HERNAN O'RYAN

-----CURRENT COMPUTATION NO: 020 -----

COMPUTATION 020 WAS LAST UPDATED ON 08-22-2007 AT LVN AUTOMATICALLY

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN  
CURRENT COMPUTATION 020: 020 010

DATE COMPUTATION BEGAN.....: 07-10-1992  
TOTAL TERM IN EFFECT.....: 240 MONTHS  
TOTAL TERM IN EFFECT CONVERTED...: 20 YEARS  
EARLIEST DATE OF OFFENSE.....: 07-31-1991

JAIL CREDIT.....:	FROM DATE	THRU DATE
	08-05-1991	07-09-1992

TOTAL PRIOR CREDIT TIME.....: 340  
TOTAL INOPERATIVE TIME.....: 0  
TOTAL GCT EARNED AND PROJECTED...: 941  
TOTAL GCT EARNED.....: 864  
STATUTORY RELEASE DATE PROJECTED: 01-05-2009  
SIX MONTH /10% DATE.....: N/A  
EXPIRATION FULL TERM DATE.....: 08-04-2011

PROJECTED SATISFACTION DATE.....: 05-10-2008  
PROJECTED SATISFACTION METHOD...: 3621E CMPL

REMARKS.....: THE COURT RECOMMENDS THAT THE DEFENDANT BE ALLOWED TO SERVE  
HIS PERIOD OF INCARCERATION AT EITHER FCI LOMPOC, FCI TERMINAL  
ISLAND, OR FCI PLEASANTON, CALIFORNIA.

G0000 TRANSACTION SUCCESSFULLY COMPLETED



BP-S761.055 RESIDENTIAL DRUG ABUSE PROGRAM NOTICE TO INMATE CDFRM  
JAN 04

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

To: CASTRO, HERNAN O'RYAN	Reg No.: 73026-011
From: E. DE SILVA <i>E De Silva</i>	Institution: TAFT CORRECTIONAL INSTITUTION
Title: DAPC	Date: <i>5-11-2005</i>

**SECTION 1 - RESIDENTIAL DRUG ABUSE PROGRAM QUALIFICATION**

You have requested participation in the Bureau's Residential Drug Abuse Treatment Program. My review of your case indicates that you (☒ **DO** ☐ **DO NOT**) meet the admission's criteria for the Residential Drug Abuse Program. It appears that you (☒ **DO** ☐ **DO NOT**) qualify to participate in the Residential Program. State the reason(s) below.

Comments:

**SECTION 2 - PROVISIONAL § 3621 (E) ELIGIBILITY** (To be completed only if the inmate has completed or qualifies for the Residential Drug Abuse Treatment Program.)

For Residential Drug Abuse Treatment Program graduates to be eligible for early release, they must (DAPC must "x")

<input checked="" type="checkbox"/> Not be an INS detainee.	<input checked="" type="checkbox"/> Not be a pre-trial inmate.
<input checked="" type="checkbox"/> Not be a contractual boarder.	<input checked="" type="checkbox"/> Not be an "old law" inmate.
<input checked="" type="checkbox"/> Not have a current crime that is an excluding offense in BOP categorization of offenses policy (Mark an "x" in the appropriate block on the right).	<input checked="" type="checkbox"/> Not a crime of violence as contained in BOP Categorization of Offenses policy.
	<input checked="" type="checkbox"/> Not an excluding crime by the Director's discretion in Categorization of Offenses policy.
<input checked="" type="checkbox"/> Not have any prior felony or misdemeanor adult conviction for homicide, forcible rape, robbery, aggravated assault, or sexual abuse of children.	

My current assessment, in consultation with your unit team, is that it (☒ **DOES** ☐ **DOES NOT**) appear that you are provisionally eligible for early release. If not, list **ALL** the reason(s).

Comments:

If applicable, I understand that a determination of early release for me is provisional, may change, and depends on continued positive behavior and successful participation in all components of the program, including community transitional services.

Inmate's Signature (indicate if refused to sign) <i>[Signature]</i>	Refused to sign <input type="checkbox"/> Yes <input type="checkbox"/> No
--	---

cc: Drug Abuse Treatment File; Unit Team (place in section 4 of inmate central file; Inmate

(This form may be replicated via WP)

(This form replaces BP-S761 dtd DEC 03)

Exhibit C

P.S. 5330.10  
CN-01, May 17, 1996  
Attachment B-3, Page 1

AGREEMENT TO PARTICIPATE IN A BOP RESIDENTIAL  
DRUG ABUSE TREATMENT PROGRAM

The Federal Bureau of Prisons offers a full range of drug education and treatment programs for inmates with alcohol and other drug abuse problems. Bureau of Prisons staff are committed to providing quality drug abuse programming to inmates who choose to participate in any one of these program options. Inmates who choose to participate in any of the Bureau's drug programs must acknowledge and agree to a number of program rules and policies prior to admission.

All program participants agree to participate in classes/counseling/group sessions as designated by the BOP Psychology and Drug Treatment Staff.

All program participants agree to refrain from any behavior disruptive to the program or to the participants and staff of the program.

All program participants agree to complete all tasks as assigned.

All program participants agree to take part in the program activities, including group work and homework as assigned.

All program participants agree to accept responsibility for not disclosing inmate information.

All program participants have been informed and understand that they may be expelled from the program for failure to comply with program rules and regulations. Ordinarily, immediate expulsion will result if the participant, pursuant to an incident report is found by the DHO to have:

- 1) Used or possessed alcohol or drugs;
- 2) Been violent or threatened violence against staff or another inmate; or
- 3) Committed a 100 series prohibited act.
- 4) Committed a prohibited act involving alcohol or drugs after completing the unit-based segment of the program.

In addition to the agreements listed and checked above, I understand that, by agreeing to participate in residential drug abuse treatment, under ordinary circumstances, I will not be considered for transfer to another institution, including a camp, during my participation in the residential drug abuse program.

I understand that participation in the residential drug abuse program does not relieve me of any financial responsibility legally imposed.



P.S. 5330.10  
CN-01, May 17, 1996  
Attachment B-3, Page 2

I understand that some of my counseling sessions may be audio/video taped. I understand these tapes will be used only for rehabilitative or educational purposes within the program. I understand that I will continue to be subjected to random drug abuse testing.

I understand that if I choose to withdraw, or am expelled from the program:

- ♦ incentives received while an active program member may be lost;
- ♦ any request for re-admission will include a reassessment for participation;
- ♦ there will be no consideration for extended CCC placement; and
- ♦ I will lose my eligibility for an early release consideration.

I understand and agree to continued transitional drug treatment services that include:

- ♦ continued positive behavior and treatment programming upon my return to general population. Failure to participate in continued treatment in the institution transition program, as prescribed by psychology staff, for less than one hour each month over a period of 12 months will result in my termination from treatment and loss of incentives previously and potentially earned;
- ♦ continued treatment programming upon my return to the community through transfer to a CCC or on home confinement. Failure to participate in continued treatment in the community transition program may result in my return to the institution, or, at the very least, to local custody; and

I understand that I must be responsible for:

- ♦ knowing the rules, goals and schedules of my particular treatment plan;
- \* ♦ attending all scheduled sessions that are assigned to me. Should I leave prior to the conclusion of the session, without permission, this is to be considered an absence; \*
- ♦ completing all assignments on time;
- \* ♦ actively participating in group sessions. Examples of active participation include, appropriate self-disclosure, and providing feedback; \*
- ♦ working on the goals/objectives of my treatment plan;

P.S. 5330.10  
CN-01, May 17, 1996  
Attachment B-3, Page 3

- ◆ being attentive during all individual and group sessions;
- ◆ keeping all information discussed in group confidential;
- ◆ following the Bureau of Prisons rules and regulations. When I incur an incident report because I have failed to follow rules and regulations, I can be expelled from the program.

◆ \_\_\_\_\_

◆ \_\_\_\_\_

I understand that staff may recommend, as a condition of my supervised release or parole, a stipulation that I receive continued treatment during the period of such release.

\* I understand that if I have been found eligible for an early release under 18 U.S.C. §3621(e), this eligibility is provisional, and may change.

I understand and consent to the release of information specified below by Bureau of Prisons staff to the appropriate U.S. Parole Commission staff, U.S. Probation staff, Community Corrections Staff, and Treatment Program Staff for the purpose of determining my eligibility for a SPA or for developing a treatment plan.

The extent and nature of the information to be disclosed includes: substance abuse history; drug program assessment summary; treatment progress; relapse prevention plan; and recommendations for continued treatment.

#### AGREEMENT/SIGNATURE

I have read, or have had this document read to me, and I understand and agree to the rules and regulations for participation in the residential drug abuse treatment program as described in this agreement to participate. \*

HERNAN O. CASTRO  
Inmate Name Printed

[Signature]  
Inmate Signature

73026-011  
Register Number

05/06/05  
Date

L. WILLIAMS  
Staff Name Printed

[Signature]  
Staff Signature

SUBSTANCE ABUSE COUNSELOR  
Staff Title

5-6-05  
Date

P.S. 5330.10  
May 25, 1995  
Attachment B-4, Page 1

## AGREEMENT TO PARTICIPATE IN COMMUNITY TRANSITION PROGRAMMING

The Federal Bureau of Prisons offers a full range of drug education and treatment programs for inmates with alcohol and other drug abuse problems. Bureau of Prisons Staff commit to providing quality drug abuse programming to inmates who choose to participate in any one of these program options. Inmates who choose to participate in any of the Bureau's drug programs must acknowledge and agree to a number of program rules and policies prior to admission.

All program participants agree to participate in classes/counseling/group sessions as designated by the BOP Psychology and Drug Treatment Staff and Community Corrections Staff.

All program participants agree to refrain from any behavior disruptive to the program or to the participants and staff of the program.

All program participants agree to complete all tasks as assigned.

All program participants agree to take part in the program activities, including group work and homework as assigned.

All program participants agree to accept responsibility for not disclosing inmate information.

All program participants have been informed and understand that they may be expelled from the program for failure to comply with program rules and regulations. Immediate expulsion will result if the participant, pursuant to an incident report is found by the DHO to have:

- 1) Used or possessed alcohol or drugs;
- 2) Been violent or threatened violence against staff or another inmate; or
- 3) Committed a 100 series prohibited act.

In addition, to the agreements listed and checked above, I agree to a number of program rules and policies prior to admission into the Community Transition Drug Treatment program.

I agree to participate in individual/group/family/drug and/or alcohol abuse counseling sessions as designated by the Transitional Services Manager.

I agree to refrain from disruptive behavior in the CCC or with other participants and to the treatment program or with participants or staff.

I agree to complete all tasks assigned. I agree to take part in program activities, including group work and special assignments.

I understand that all personal information is kept confidential with the following exceptions:

- a. Program staff may release information when there is a risk of danger to the health

Exhibit D

and safety of inmates, staff, or other persons;

P.S. 5330.10  
May 25, 1995  
Attachment B-4, Page 2

b. Program staff may release information when there is a threat to the security or orderly running of the Community Corrections Center;

c. Program staff may release information to the Regional Transitional Services Manager, Community Corrections Center staff, United States Probation, and/or other parties to whom release of information is deemed appropriate, in accordance with the information to be disclosed listed below.

I understand that expulsion from the program is considered a program failure and may result in my return to an institution.

I understand that expulsion from the program will result in my loss of consideration for a 3621 release.

I understand that withdrawal from the program shall be deemed a program failure and may result in my return to an institution.

I understand and consent to the release of information specified below by Bureau of Prisons staff to the appropriate U.S. Probation staff, Community Corrections staff, and Treatment Program staff for the purpose of developing a treatment plan.

***The extent and nature of the information to be disclosed includes: substance abuse history; drug program assessment summary; treatment progress; relapse prevention plan; recommendations for continued treatment.***

#### **Agreement/Signature**

***I have read, or have had this document read to me, and I understand and agree to the rules and regulations for participation in the treatment option(s).***

CASTRO, H.

**Inmate Name Printed**

T. Hubbert

**Staff Name/Printed**

[Signature]

**Inmate Signature**

[Signature]

**Staff Signature**

73026-011

**Register Number**

Drug Treatment Specialist

**Staff Title**

01/31/07

**Date**

01/31/07

**Date**



I, Hernan CASTRO, Register Number, 72036-011, hereby authorize employees of the Department of Justice and employees of any facility contracting with the Department of Justice to release any or all of the contents of information in my inmate central file to educational facilities, social agencies, prospective employees, etc., for the purpose of assisting in all phases of community programming and release planning. I also authorize the above persons to advise prospective employers that I am currently in the custody of the U.S. Attorney General serving sentence or under the supervision of the U.S. Parole Commission or U.S. Probation Office. This consent will remain in effect until my release from supervision or until revoked in writing by me. Revocation of this authorization may result in my removal from a community-based correctional program.

I understand that while a resident of a community corrections center or work release program I will be expected to contribute to the cost of my residence through payments to the contractor and I agree to make such payments. I understand that failure to make payments may result in my removal from a community-based program (Not applicable for MINT referrals).

I understand that urinalysis or other Bureau of Prisons authorized testing to detect unauthorized drug or alcohol use may be required as a condition of residence in a community corrections center or work release program, and if required, I agree to submit to such testing. I understand that ingestion of poppy seed products may result in positive test results for unauthorized drug use and is therefore prohibited.

I understand that I am expected to assume financial responsibility for my health care while a resident of a community-based correctional program. Should I be unable or unwilling to bear the cost of necessary medical care I understand that I may be transferred to a suitable institution or facility, at the Governments option, to receive such care. I understand that no medical care may be provided to me at Government expense without prior authorization of the Bureau of Prisons.

I understand that I may be required to cooperate with a substance abuse assessment and participate in any treatment recommended as a result of the assessment.

I understand that I may be required to abide by the conditions of supervision as imposed by the sentencing court or the U.S. Parole Commission, including the payments of fines and restitution and to follow the instructions of the probation officer as if on supervision.

I understand that upon arrival at the community corrections center I may be initially placed in the restrictive Community Corrections Component for a period of orientation. In this component, I will be expected to remain at the CCC unless authorized to leave for employment or other authorized program purposes. Additionally, I understand that social visits and recreational/leisure activities will be confined to the CCC.

I understand that while a resident of a community corrections center or work release program I will be required to abide by the rules and regulations promulgated by such program.

For MINT referrals, I understand that I or the guardian shall assume total financial responsibility for my child's care while I am a resident of a CCC. Should I or the guardian be unable or unwilling to bear my child's financial cost, I will be transferred back to my parent institution immediately. I understand that I understand that no financial support will be provided to my child by the Bureau of Prisons.

#### PART II

In the event that I am approved for home confinement, I agree to abide by the following conditions related to my legal participation in home confinement.

I understand that my participation in home confinement will be an alternative to placement in a CCC for no more than the last six months or 10% of my sentence, whichever is less. I am aware that I will legally remain in the custody of the Bureau of Prisons and/or the U.S. Attorney General and that failure to remain at the required locations may result in disciplinary action and/or prosecution for escape.

I agree to report to my assigned probation officer or the contractor's facility immediately upon reaching my release destination.

I understand that if I decline to participate in the recommended home confinement program I may face administrative reassignment out of the community corrections program.

I agree that during the home confinement period, I will remain at my place of residence, except for employment, unless I am given permission to do otherwise. I also understand that I will be required to pay the costs of the program based on my ability to pay.

I also agree to maintain a telephone at my place of residence without "call forwarding," a modem, "Caller ID" or portable cordless telephones for this period. I also agree that if my confinement is to be electronically monitored, I will wear any electronic monitoring device required, follow procedures specified and not have "call forwarding" on my telephone.

Inmate's Printed Name and Signature  
Hernan CASTRO  
Witness' Printed Name and Signature  
J. Johnson  
Record copy - CCM; Copy - CCM; Copy - Central File  
(This form may be replicated via WP)

Date  
06/21/08  
Date  
6-21-07

Replaces BP-S434.073 dtd NOV 95

Exhibit E